



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

May 28, 2015

Lawrence J. Tabas, Esq.  
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One Penn Center, 19<sup>th</sup> Floor  
Philadelphia, Pennsylvania 19103

*Via email to Lawrence.tabas@obermayer.com*

RE: MUR 6899  
Republican Federal Committee of  
Pennsylvania and Carolyn Welsh in  
her official capacity as treasurer

Dear Mr. Tabas:

Please find enclosed a copy of the closing letter and Factual & Legal Analysis regarding your client, Republican Federal Committee of Pennsylvania. We inadvertently sent the letter and enclosure directly to your client yesterday.

Sincerely,

Elena Paoli  
Staff Attorney

Enclosures:

Letter to Republican Federal Committee of Pennsylvania  
Factual and Legal Analysis

110314M/M/28



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Republican Federal Committee of Pennsylvania  
Carolyn Welsh, Treasurer  
112 State Street  
Harrisburg, Pennsylvania 17101

**MAY 27 2015**

RE: MUR 6899  
Republican Federal Committee of  
Pennsylvania and Carolyn Welsh  
in her official capacity as treasurer

Dear Ms. Welsh:

On November 7, 2014, the Federal Election Commission notified Republican Federal Committee of Pennsylvania and you as treasurer ("RFCP") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on May 19, 2015, voted to dismiss the allegation that RFCP violated 52 U.S.C. § 30120(a)(2) or (3) and found no reason to believe that RFCP violated 52 U.S.C. § 30116(a)(2)(A). The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

If you have any questions, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Blumberg", with a long horizontal flourish extending to the right.

Peter Blumberg  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

**RESPONDENTS:** Republican Federal Committee  
of Pennsylvania and Carolyn Welsh  
in her official capacity as treasurer

MUR 6899

I. INTRODUCTION

This matter was generated by a complaint filed with the Federal Election Commission by Patrick Long, campaign manager for Mary Ellen Balchunis for Congress, alleging violations of the Federal Election Campaign Act of 1971, as amended (the "Act").

The Complaint alleges that the Republican Federal Committee of Pennsylvania and Carolyn Welsh in her official capacity as treasurer ("RFCP") distributed a mailer on behalf of congressional candidate Pat Meehan that failed to include a disclaimer stating whether it was authorized by Meehan or Pat Meehan for Congress ("Committee"), Meehan's authorized committee. Compl. at 1. The Complaint also alleges that the Committee must have provided the two photographs of Meehan used in RFCP's mailer because they "do not appear to be publicly available." *Id.* RFCP responds that the mailer qualifies for the "volunteer materials" exemption, making an authorization statement unnecessary. RFCP Response at 1. RFCP further asserts that it did not obtain the photographs used in the mailer from the Committee or Meehan. *Id.* The Committee responds that it had no involvement with or connection to the mailer. Committee Response at 1.

II. FACTUAL AND LEGAL ANALYSIS

RFCP is a state party committee. See RFCP Statement of Organization, filed November 2, 2011, at 2. Its two-page mailer shows two photos of Meehan meeting with constituents and touts Meehan's record on "protecting Social Security and Medicare." See Compl., Exh. 1. The

1 mailer includes the Committee's campaign logo, which reads "Meehan for Congress."<sup>1</sup> *Id.* The  
2 mailer's disclaimer states, "Paid for by the Republican Federal Committee of Pennsylvania," and  
3 the return address on the mailer includes RFCP's street address and internet address. *See id.*<sup>2</sup>

4 **A. Disclaimers and the Volunteer Materials Exemption**

5 Under the Act, any public communication, such as a mass mailing,<sup>3</sup> made by a political  
6 committee must display a disclaimer. 52 U.S.C. § 30120(a) (formerly 2 U.S.C. § 441d(a));  
7 11 C.F.R. § 110.11. If the mailer is authorized by a candidate or the candidate's authorized  
8 committee, but is paid for by another person, the mailer must state that the other person paid for  
9 it, and that the candidate's committee authorized it. 52 U.S.C. § 30120(a)(2) (formerly 2 U.S.C.  
10 § 441d(a)(2)). If the mailer is not authorized by a candidate or candidate's committee, the  
11 disclaimer must provide the payor's name, street address, phone number or internet address and  
12 state that the mailer is not authorized by any candidate or candidate committee. 52 U.S.C.  
13 § 30120(a)(3) (formerly 2 U.S.C. § 441d(a)(3)); 11 C.F.R. § 110.11(b)(3). If, however, the  
14 mailer satisfies the volunteer materials exemption, the disclaimer on the mailer need not include  
15 an authorization statement. 11 C.F.R. § 110.11(e).

16 Under the volunteer materials exemption, the costs of certain campaign materials paid for  
17 by a state or local party committee and used in connection with volunteer activities on behalf of  
18 the party's nominee are neither contributions nor expenditures. *See* 52 U.S.C. § 30101(8)(B)(ix),

<sup>1</sup> *See* Response at 1 (same logo).

<sup>2</sup> From October 20-27, 2014, RFCP paid \$75,483 to Red Maverick Media, a communications vendor, and \$15,590 to the U.S. Postal Service in connection with "Meehan mail," for a total of \$91,703. *See* 2014 Post-General Report, filed on December 3, 2014, at 193, 195-96, 214, 216-17, and 222. The Meehan mailer at issue, however, is not specifically identified in RFCP's disclosure reports, and the Committee made no disbursement in connection with Meehan on October 23, 2014, the date the volunteers apparently worked on the mailer. Thus, we are unable to determine the precise cost of the mailer.

<sup>3</sup> A "mass mailing" is a mailing by United States mail or facsimile of more than 500 pieces of identical or substantially similar matter within any 30-day period. 11 C.F.R. § 100.27. The photographs attached to RFCP's response strongly suggest that the Meehan mailer was a mass mailing. *See* RFCP Resp., Exh. 1 (Zach Niles Statement Attachments).

1 (9)(B)(viii) (formerly 2 U.S.C. § 431(8)(B)(ix), (9)(B)(viii)). To qualify for the volunteer  
2 materials exemption, mailers must be “used ... in connection with volunteer activities,”  
3 “distributed by volunteers and not by commercial or for-profit operations,” and cannot “be used  
4 in connection with ... direct mail,” which means “any mailing(s) by a commercial vendor or any  
5 mailing(s) made from commercial lists.” 11 C.F.R. §§ 100.87, 100.147; *see, e.g.*, MUR 5598  
6 (Utah Republican Party) (exercising prosecutorial discretion to dismiss matter where volunteers  
7 stamped mailers and loaded them onto a truck, but commercial vendor printed addresses on  
8 mailers, sorted them by postal carrier route, and delivered mailers to post office).<sup>4</sup> And, as  
9 mentioned above, disclaimers on mailers that satisfy the volunteer materials exemption must  
10 include a “paid for by” statement and the payor’s name, street address, phone number or web  
11 address, but not an “authorized by” statement, even if a candidate authorized the mailer. *See*  
12 11 C.F.R. § 110.11(a), (c).

13 In its sworn Response, RFCP argues that the mailer qualifies for the volunteer materials  
14 exemption because volunteers performed work on the mailing, it did not use a commercial  
15 mailing list, and it only used federal funds to pay for the mailing. RFCP Resp. at 1. In a sworn  
16 statement, RFCP’s “non-allocable mail coordinator” attests that he personally supervised the  
17 volunteers who worked on the Meehan mailing. *See* RFCP Resp., Exh. 1 (Zach Niles  
18 Statement). Niles attached a volunteer sign-in sheet, dated October 23, 2014, and eleven  
19 photographs that show volunteers unpacking, addressing, and transporting the mailing to the post  
20 office. *See* RFCP Resp., Exh. 1 (Niles Statement Attachments). The Complaint does not allege  
21 any facts that show that RFCP did not satisfy the exemption’s requirements.

<sup>4</sup> Although not in dispute in this MUR, the exemption also requires that the communication’s costs be paid for with federal funds and not involve the use of national party funds. *See* 11 C.F.R. §§ 100.87(a)-(g), 100.147(a)-(g).

1 The mailer at issue qualifies for the volunteer materials exemption and, therefore,  
2 RFCP's disclaimer did not require an authorization statement. RFCP is a state party committee,  
3 and its response is supported by a sworn statement and many pictures showing that RFCP  
4 volunteers unpacked, addressed, and delivered the mail pieces to the post office. These activities  
5 are similar to those the Commission has found sufficient to meet the exemption, which include  
6 stamping, sorting, and bundling mail pieces, and delivering them to the post office. See MUR  
7 4851 (Michigan Republican State Committee) (exemption applied where volunteers stamped,  
8 placed address labels on mailers, and delivered mailers to post office); see also MUR 3218  
9 (Blackwell for Congress) (volunteers stamped and sorted the mail pieces into the requisite  
10 postal/zip code categories and transported them to the post office); MUR 4754 (Republican  
11 Campaign Committee of New Mexico) (same).<sup>5</sup> Thus, RFCP has shown that its volunteers  
12 distributed the materials, as required by the regulation. See 11 C.F.R. §§ 100.87(d), 100.147(d).

13 Because the mailer appears to satisfy the volunteer materials exemption, the disclaimer  
14 on the mailer only needed to state that RFCP paid for it and to provide RFCP's full name, street  
15 address, and web address. See 11 C.F.R. § 110.11(b)(3), (e). The mailer contained all this  
16 information. The mailer's disclaimer, however, was deficient because it did not include all the  
17 required information inside a printed box. See 52 U.S.C. § 30120(c)(2) (formerly 2 U.S.C.  
18 § 441d(c)(2)). The box contained RFCP's full name and its "paid for by" statement, but not its  
19 street and web addresses. See Compl., Exh. 1. The return address on the mailer, however,  
20 provided the missing information. See *id.*

21 Therefore, because all the required information was readily apparent on the mailer, the  
22 Commission exercises its prosecutorial discretion and dismisses the allegation that the

<sup>5</sup> The Statement of Reasons in MUR 5598 describes additional, similar scenarios the Commission has found to satisfy the exemption. See Statement of Reasons, Comm'rs. Petersen, Bauerly, Hunter & Weintraub, MUR 5598 (Utah Republican Party) at 3-4.

1 Republican Federal Committee of Pennsylvania and Carolyn Welsh in her official capacity as  
2 treasurer violated 52 U.S.C. § 30120(a)(2) or (3) (formerly 2 U.S.C. § 441d(a)(2) or (3)). *See*,  
3 e.g., MUR 6683 (Fort Bend Democratic Party) (Commission dismissed disclaimer violation  
4 where Committee was identified elsewhere in the communication).

5 **B. Use of Photographs**

6 The Complaint alleges that RFCP used two Meehan campaign photographs in the mailer.  
7 The Complaint appears to suggest that the use of the photos resulted in a contribution from  
8 RFCP to the Committee, either through republication or coordination.<sup>6</sup> *See* Compl. at 1. The  
9 Complainant specifically alleges that RFCP used two photographs of Meehan that it was unable  
10 to locate on the Committee's website, Flickr, or Facebook pages. *See id.* Thus, Complainant  
11 surmises that the Committee provided the photos to RFCP. *Id.* RFCP flatly denies that it  
12 received the photographs from Meehan or the Committee. *See* RFCP Resp. at 1. And the  
13 Committee asserts that it had no connection to or involvement with the mailing. *See* Committee  
14 Resp. at 1.

15 Both RFCP's and the Committee's denials are sworn, and Complainant cites nothing,  
16 other than the inability to find the pictures on Meehan's internet sites, to cast doubt on these  
17 denials. And there is no available information to support the Complainant's speculative  
18 allegation. Further, payments qualifying for the volunteer materials exception are not  
19 "contributions" or "expenditures," and are not subject to the Act's contribution or expenditure  
20 limits. *See* 52 U.S.C. §§ 30101(8)(B)(ix), (9)(B)(viii) (formerly 2 U.S.C. §§ 431(8)(B)(ix),  
21 (9)(B)(viii)); 11 C.F.R. §§ 100.87, 100.147. Therefore, RFCP may permissibly coordinate these  
22 communications with the Meehan Committee.

<sup>6</sup> 52 U.S.C. § 30116(a)(7)(B)(iii) (formerly 2 U.S.C. § 441a(a)(7)(B)(iii)); 52 U.S.C. § 30116(a)(7)(B)(i) (formerly 2 U.S.C. § 441a(a)(7)(B)(i)).

- 1           Accordingly, there is no reason to believe that the Republican Federal Committee of
- 2   Pennsylvania and Carolyn Welsh in her official capacity as treasurer made an excessive
- 3   contribution in violation of 52 U.S.C. § 30116(a)(2)(A) (formerly 2 U.S.C. § 441a(a)(2)(A)).

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